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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,631	08/22/2003	Theodore Pasquale	1033-T00532	8452

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TOLER SCHAFFER, LLP  
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SUITE 265  
AUSTIN, TX 78746

EXAMINER
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LA, NICHOLAS T

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/646,631

Applicant(s)

PASQUALE ET AL.

Examiner

Nicholas T. La

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Response to Arguments***

Applicant's arguments, see Remarks, filed 10/17/2006, with respect to the rejection(s) of the claim(s) under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC 102 (e) anticipated by Sorvari et al. since the examined claims should be given broadest interpretations in the examination process.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Regarding **claim 19-20**, the claimed invention is directed to non-statutory subject matter. "A computer readable medium having computer readable data operable" to perform a function draws to a non-statutory subject matter. The examiner suggests the claim language to be amended as followed "a computer readable medium encoded with a computer program" to perform a function. Correction is required.

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-14, 19-20** are rejected under 35 U.S.C. 102(e) as being anticipated by Sorvari et al. (US Pub. No. 2004/0043758).

Regarding **claim 1**, Sorvari et al. teaches a prioritizing interface system comprising:

a wireless-enable device comprising a housing component, a display and a user input mechanism, the housing component at least partially defining an internal cavity (Figure 1 shows a housing component that inherently defines an internal cavity to house the circuitry of the handset MS1 shown in figure 2, including a display and a keypad and an internal antenna elements 3, 4, 5, 7; paragraph [0047]);

a display engine located within the internal cavity and operable to initiate presentation of a menu comprising a plurality of selectable items displayed in respective menu positions (figure 2, element 10, 8, 5 ; paragraph [0047], [0052], a micro-browser controls the display a bookmark list including entries. in the form of menu options, i.e., display engine), the menu further comprising a menu

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locator indicating a location of a current menu within a menu structure (Figure 9A-9J, 16A-16F; paragraph [0237]-[2061]);

a metric engine communicatively coupled to the user input mechanism and located within the internal cavity, the metric engine operable to track at least one selection metric for at least one of the selectable items (figure 2, element 10, 8, 3, 4; paragraph [0053], wherein Sorvari et al. discusses if the key 4 selected, under the control of software 10 being run by controller 8, the appropriate action will be carried out to navigate and display the selectable option) ;

a priority engine communicatively coupled to the metric engine and located within the internal cavity, the priority engine operable to determine a prioritization level for the at least one selectable item, the prioritization level at least partially based on the at least one selection metric (paragraph [0059], [0060]; Sorvari et al. discusses a service recommendation engine are configured to recommend or determined a preferred or desired subset of service according to user-related filter criteria, i.e., priority engine); and

a mapping engine communicatively coupled to the priority engine and located within the internal cavity, the mapping engine operable to modify an assigned menu position for the at least one selectable item in response to a changed prioritization level for the at least one selectable item (figure 2, element 9, 8; paragraph [0057]-[0058]; Sorvari et al. further discusses a process of updating the bookmarks list, re-dial lists by removed, shifted the menu position in response to changed prioritization level for one selectable item, i.e., mapping engine).

Regarding **claim 10**, Sorvari et al. further teaches an interface prioritization method comprising:

presenting a menu within a graphical user interface of a wireless-enabled device, the menu comprising an available menu option displayed in a menu location (figure 3, paragraph [0052]);

receiving a user input selecting the available menu option; tracking a selection metric for the available menu option (figure 3, paragraph [0052]-[0053]); and

using the selection metric to determine an appropriate menu location for the available menu option (figure 3, paragraph [0053], [0060]; Sorvari et al. discusses a method upon making the selection by the user, the wireless device is configured to allow the user to access to the desired services, i.e., appropriate menu location).

displaying the available menu option in the determined appropriate menu location if a metric-based menu display setting is selected (Figure 3; 9A-9J; paragraph [0053], [0237]-[0261] Sorvari et al. further teaches short-cuts or menus structure are predefined and generated; menu display presented in numbers);

displaying the available menu option in a preset menu location if preset menu display setting is selected (Figure 3; 9A-9J; 16A-16F; paragraph [0053], [0076], [0237]-[0261]; Sorvari et al. further teaches short-cuts or menus structure are predefined and generated; menu display presented in numbers);

Regarding **claim 19**, Sorvari et al. further teaches a computer-readable medium having computer-readable data operable to initiate presentation of a menu (paragraph [0051]) comprising a plurality of selectable items displayed in respective menu positions (see figure 3), to track at least one selection metric for at least one of the selectable items (figure 2, element 10, 8, 3, 4; paragraph [0053], wherein Sorvari et al. discusses if the key 4 selected, under the control of software 10 being run by controller 8, the appropriate action will be carried out to navigate and display the selectable option), to determine a prioritization level for the at least one selectable item at least partially based on the at least one selection metric (paragraph [0059], [0060]; Sorvari et al. discusses a service recommendation engine are configured to recommend or determined a preferred or desired subset of service according to user-related filter criteria), and to modify an assigned menu position for the at least one selectable item in response to a changed prioritization level for the at least one selectable item (figure 2, element 9, 8; paragraph [0057]-[0058]; Sorvari et al. further discusses a process of updating the bookmarks list, re-dial lists by removed, shifted the menu position in response to changed prioritization level for one selectable item), to store a user preference setting (Figure 9D-E, paragraph [0022]; [0079]), to display a menu option in the assigned appropriate menu location if a metric-based menu display is selected (Figure 3; 9A-9J; paragraph [0053], [0237]-[0261]), and to displaying the available menu option in a preset menu location if a preset display setting is selected (Figure 3; 9A-9J; paragraph [0053], [0076], [0237]-[0261]; Sorvari et al.

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further teaches short-cuts or menus structure are predefined and generated; menu display presented in numbers);

Regarding **claim 2**, Sorvari et al. further teaches a system further comprising a plurality of secondary selectable items displayable by the display engine in response to receipt of a user input identifying the at least one selectable item (figure 9A, 12, 13, 16A, 16B, paragraph [0237]).

Regarding **claim 3**, Sorvari et al. further teaches a system, wherein the metric engine is further operable to track a selection metric for at least one of the plurality of secondary selectable items (paragraph [0237]-[0261]).

Regarding **claim 4**, Sorvari et al. further teaches a system, further comprising: a memory located within the internal cavity; and a data store resident on the memory, the data store comprising a template with fields representing assignable menu positions, at least one of the fields linked to the at least one selectable item (figure 2, element 9; paragraph [0057]).

Regarding **claim 5**, Sorvari et al. further teaches a system, wherein the mapping engine links the at least one selectable item to a different field to modify the assigned menu position for the at least one selectable item (figure 2, paragraph [0057]-[0058]).



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Regarding **claim 6**, Sorvari et al. further teaches a system, wherein the wireless-enabled device is selected from the group consisting of a cellular telephone, a cordless telephone, a notebook computer, an audio player, a video player, and a gaming device (figure 1, 3; paragraph [0083]).

Regarding **claim 7**, Sorvari et al. further teaches a system, further comprising:

a memory located within the internal cavity (figure 2, element 10);

a plurality of secondary selectable items displayable by the display engine in response to receipt of a user input identifying the at least one selectable item (figure 9A, 12, 13, 16A, 16B, paragraph [0237]);

the primary template having fields representing assignable menu positions, at least one of the fields linked to the at least one selectable item, the at least one of the fields additionally linked to the secondary template (figure 2, element 9; paragraph [0057]; (figure 9A, 12, 13, 16A, 16B, paragraph [0237]));

the secondary template having fields representing dependent menu positions linked to the respective secondary selectable items (figure 9A, 12, 13, 16A, 16B, paragraph [0237])-[0261]; and

a data store resident on the memory, the data store comprising the primary template and the secondary template (Figure 12, paragraph [0187], [0221]).

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Regarding **claim 8**, Sorvari et al. further teaches a system, wherein the mapping engine links the at least one selectable item to a different field of the primary template to modify the assigned menu position for the at least one selectable item (figure 2, paragraph [0057]-[0058]).

Regarding **claims 9**, Sorvari et al. further teaches a system, further comprising a preset display template linking the plurality of selectable items to fixed menu positions (paragraph [0076]).

Regarding **claims 11, 12, 13, 14**, Sorvari et al. further teaches a method comprising storing a presentation template in memory local to the wireless-enabled device, the presentation template comprising fields representing assignable menu positions, wherein a first field represents the menu location and a second field represents a modified location (figure 9A, 16A-B, paragraph [0186], [0221], [0237]-[0261], wherein main menu, sub-menu, i.e., template; options, i.e., fields; Sorvari et al. also discusses storing in a local file system directory to the wireless device an example the specifies the allowed order, structure, and meaning of the tags for the new recommendations. Sorvari et al. further discusses a user can select an option, the selection will link to an available menu option to the sub-menu. Sorvari et al. also discusses there are many options available to the menu so that a selection of any of the options will be determined to link to an appropriate sub-menu in means of removing the initial link associating with the first template and fields).

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Regarding **claim 20**, Sorvari et al. further teaches a computer-readable medium, comprising additional computer-readable data operable to maintain a template with fields representing assignable menu positions, at least one of the fields linked to the at least one selectable item, and to link the at least one selectable item to a different field in order to modify the assigned menu position for the at least one selectable item (figure 6, 7; paragraph [0051], [0057]).

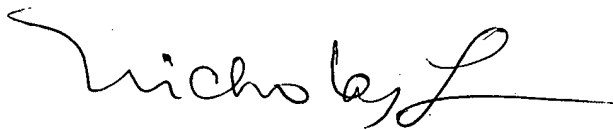
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas T. La whose telephone number is (571)-272-8075. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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12/15/2006



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